

**ASSEMBLY BILL**

**No. 15**

**Introduced by Assembly Member Rod Pacheco**

May 16, 2001

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An act to add Sections 17053.82 and 23682 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 15, as introduced, Rod Pacheco. Income and bank and corporation tax credits: energy conservation measures.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, under both laws, allow *for taxable years beginning on or after January 1, 2001, and before January 1, 2004*, a credit in an amount ~~equal to 100% of~~, *not to exceed \$1000 for any taxable year*, for the ~~cost~~ *qualified costs* paid or incurred by a taxpayer during the taxable year for energy conservation measures, as defined, ~~that result in a 5% reduction in the taxable year over the preceding taxable year in the amount of natural gas and electricity used by the taxpayer in this state.~~

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053.82 is added to the Revenue and  
2 Taxation Code, to read:  
3 17053.82. ~~(a) There shall be allowed as a credit against the~~  
4 ~~“net tax,” as defined in Section 17039, an amount equal to 100~~

1 percent of the cost paid or incurred by a taxpayer during the taxable  
2 year for energy conservation measures that result in a 5 percent  
3 reduction in the taxable year over the preceding taxable year in the  
4 amount of electricity and natural gas used by the taxpayer in this  
5 state.

6 (b) For purposes of this section “energy conservation  
7 measures” include, but are not limited to, replacing or installing  
8 air conditioners, refrigerators, windows, insulation,  
9 weatherstripping, low flow devices, ventilation cooling fans, attic  
10 ventilators, economizer systems, and heaters with more energy  
11 efficient models, devices, or designs.

12 (c) No deduction may be allowed under this part for any cost  
13 for which a credit is allowed by this section.

14 (d) In the case where the credit allowed by this section exceeds  
15 the “net tax,” the excess may be carried over to reduce the “net  
16 tax” in the following year, and succeeding years if necessary, until  
17 the credit is exhausted.

18 17053.82. (a) For each taxable year beginning on or after  
19 January 1, 2001, and before January 1, 2004, a qualified taxpayer  
20 shall be allowed a credit against the “net tax,” as defined in  
21 Section 17039, in an amount, not to exceed one thousand dollars  
22 (\$1,000) per taxable year, that is equal to the qualified cost of  
23 energy conservation measures installed and placed in service on  
24 qualified property in this state.

25 (b) For purposes of this section, a “qualified taxpayer” means  
26 any taxpayer that installs one or more energy conservation  
27 measures on the taxpayer’s qualified property in this state.

28 (c) (1) For purposes of this section, “qualified cost” means  
29 any cost paid or incurred on or after January 1, 2001, and before  
30 January 1, 2004, by the qualified taxpayer for the purchase, lease,  
31 or installation of an energy conservation measure, as described in  
32 subdivision (e), that has been certified as specified in subdivision  
33 (h) and installed and placed in service on qualified property in this  
34 state.

35 (2) “Qualified costs” do not include any costs paid or incurred  
36 in connection with the purchase, lease, or installation of any used  
37 energy conservation measure. For purposes of this paragraph, a  
38 used energy conservation measure means an energy conservation  
39 measure where the original use of the energy conservation measure  
40 did not commence with the taxpayer within the meaning of Section

1 1.48-2 of regulations issued by the Secretary of the Treasury as in  
2 effect January 1, 2001.

3 (3) (A) “Qualified costs” do not include the amount of a  
4 federal or state grant received by the taxpayer for an energy  
5 conservation measure.

6 (B) In the event any grant described in subparagraph (A) is  
7 received in a taxable year other than the taxable year in which the  
8 credit was claimed under this section, the qualified taxpayer shall  
9 be required to amend his or her return for the taxable year in which  
10 the credit was claimed to reduce the qualified costs upon which the  
11 credit was based by the amount of the grant.

12 (C) For purposes of this paragraph, a federal or state grant for  
13 an energy conservation measure means an amount received under  
14 federal or state law related to the acquisition, installation, or  
15 ownership of an energy conservation measure.

16 (4) In any case in which the limitation specified in subdivision  
17 (a) applies, any amounts that would otherwise be treated as  
18 qualified costs under this section but for those amounts being in  
19 excess of the limitation amount in subdivision (a), then those  
20 excess amounts shall not be treated as qualified costs under this  
21 section in any other taxable year.

22 (d) (1) In the case of any lease of an energy conservation  
23 measure where the lessee is not treated as the owner of the energy  
24 conservation measure for California income and franchise tax  
25 depreciation purposes, all of the following special rules apply:

26 (A) Only the taxpayer actually using the energy conservation  
27 measure may be treated as a qualified taxpayer that may claim the  
28 credit allowed under this section.

29 (B) In computing the qualified costs paid or incurred by the  
30 lessee during the taxable year, the portion of each lease payment  
31 that is allocable to interest, including for this purpose any discount  
32 factor used to price the lease payments under the terms of the lease,  
33 taxes, maintenance, insurance, and any other noncapital costs of  
34 the lease shall be excluded from qualified costs for purposes of this  
35 section.

36 (C) The placed in service date for a lease shall be treated as the  
37 inception date of the lease or, if earlier, the first date on which the  
38 lessee becomes unconditionally obligated to pay lease payments  
39 under the terms of the lease.

1 (D) A qualified taxpayer that is a lessee shall be entitled to  
2 claim the credit each year of the lease term in which lease  
3 payments, as adjusted under subparagraph (B), are paid or  
4 incurred, subject to the taxable year limitations set forth in  
5 subdivision (a).

6 (2) In the case of any lease of an energy conservation measure  
7 where the lessee is treated as the owner of the property for  
8 California income and franchise tax depreciation purposes, the  
9 rules of paragraphs (1) and (2) of subdivision (c) and of  
10 subdivision (g) apply.

11 (e) (1) For purposes of this section, “energy conservation  
12 measure” means any item with a useful life of at least three years  
13 in one of the following generic categories that meet the minimum  
14 standards as specified in subdivision (i):

15 (A) Ceiling insulation.

16 (B) Weatherstripping of any doors and windows that lead to  
17 unheated or uncooled areas that effectively and reliably limits air  
18 infiltration.

19 (C) Low-flow devices on all accessible showerheads and  
20 toilets.

21 (D) Insulation of all accessible supply and return of heating  
22 and cooling system ducts and plenums that are located in unheated  
23 or uncooled areas and sealing of all duct and plenum joints with  
24 pressure-sensitive tape or mastic.

25 (E) Ventilation cooling fans, attic ventilators, house fans, and  
26 economizer systems.

27 (F) Floor insulation, excluding carpet, carpet pads, rugs, tile,  
28 and linoleum.

29 (G) Energy efficient appliances, including, but not limited to,  
30 refrigerators, dishwashers, laundry washers, and laundry dryers.

31 (H) Energy efficient heating and cooling systems.

32 (I) An external water heater insulation blanket.

33 (J) Caulking or sealing of all major cracks and joints and other  
34 openings in building exteriors that reduce the loss of heated or  
35 cooled air or the entry of outside air where feasible, and sealing  
36 of wall outlets.

37 (K) Wall insulation.

38 (L) Heat pumps and water heating heat pumps, including those  
39 that use air, water, or earth as a source or sink of heat, that replace

1 *electric resistance heaters or are used in conjunction with a solar*  
2 *energy system.*

3 *(M) Covers for swimming pools or hot tubs that transmit the*  
4 *sun's radiation energy into the water or reduce heat loss or water*  
5 *evaporation.*

6 *(N) Electrical or mechanical furnace ignition systems that*  
7 *replace gas pilot lights.*

8 *(O) Devices modifying the openings of heating and cooling*  
9 *systems that achieve increased energy efficiency.*

10 *(P) Storm or thermal windows or doors for the exterior of*  
11 *dwellings, evaporative coolers, heat absorbing or heat reflective*  
12 *glazed window and door materials, exterior shading devices, and*  
13 *movable insulation including, but not limited to, shutters or*  
14 *thermal drapes, that substantially reduce the energy needed for*  
15 *space heating and cooling.*

16 *(Q) Load management devices to reduce the direct or indirect*  
17 *use of electricity through interruption, storage, or load limiting.*

18 *(2) (A) "Energy conservation measure" does not include any*  
19 *generic item described in paragraph (1) installed or placed in*  
20 *service in connection with the construction of a building or*  
21 *mobilehome or in connection with an increase in the square*  
22 *footage of qualified property.*

23 *(B) For purposes of this paragraph, "square footage" means*  
24 *the total area of the qualified property in square feet at the*  
25 *beginning of the taxable year in which the taxpayer claimed a*  
26 *credit for the energy conservation measure. For purposes of*  
27 *calculating the square footage of qualified property, the total area*  
28 *of an attached garage shall be excluded.*

29 *(f) For purposes of this section, "qualified property" means a*  
30 *building or mobilehome, the original use of which commenced*  
31 *before the beginning of the taxable year.*

32 *(g) The credit allowed by this section shall be claimed in the*  
33 *taxable year in which the energy conservation measure is placed*  
34 *in service, and, except for the special rule provided under*  
35 *subdivision (d), any amounts paid or incurred in any taxable year*  
36 *prior to the placed in service year shall be aggregated with*  
37 *amounts paid or incurred in the placed in service year for purposes*  
38 *of determining the qualified costs eligible for the credit.*

39 *(h) The qualified taxpayer shall do all of the following:*

(1) Obtain from the State Energy Resources Conservation and Development Commission written certification that each energy conservation measure for which the credit is claimed is an item described in subdivision (d), and that the item, as installed on the taxpayer's property, would improve the energy efficiency of that property.

(2) Retain a copy of the certification described in paragraph (1) of this subdivision and provide it upon request to the Franchise Tax Board.

(3) If the qualified taxpayer fails to meet the conditions of paragraphs (1) and (2) of this subdivision, then no credit shall be allowed under this section until the requirements of paragraphs (1) and (2) are satisfied.

(i) (1) The State Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations that establish minimum standards that any item of a generic category of energy conservation measure, as defined by this section, shall meet to be eligible for a credit under this section. These standards shall include minimum provisions for effectiveness, safety, and consumer protection, that are consistent with standards established pursuant to the applicable federal and state law.

(2) The Franchise Tax Board may prescribe any regulations that may be necessary to carry out the purposes of this section.

(j) No deduction shall be allowed under this part for any cost for which a credit is allowed by this section.

(k) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and the seven succeeding years if necessary, until it is exhausted.

(l) This section shall remain in effect only until December 1, 2004, and as of that date is repealed.

SEC. 2. Section 23682 is added to the Revenue and Taxation Code, to read:

~~23682. (a) There shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to 100 percent of the cost paid or incurred by a taxpayer during the taxable year for energy conservation measures that result in a 5 percent reduction, in the taxable year over the preceding taxable year, in~~



~~the amount of electricity and natural gas used by the taxpayer in this state.~~

~~(b) For purposes of this section “energy conservation measures” include, but are not limited to, replacing or installing air conditioners, refrigerators, windows, insulation, weatherstripping, low-flow devices, ventilation cooling fans, attic ventilators, economizer systems, and heaters with more energy efficient models, devices, or designs.~~

~~(c) No deduction may be allowed under this part for any cost for which a credit is allowed by this section.~~

~~(d) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit is exhausted.~~

*23682. (a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, a qualified taxpayer shall be allowed a credit against the “tax,” as defined in Section 23036, in an amount not to exceed one thousand dollars (\$1,000) per taxable year, that is equal to the qualified cost of energy conservation measures installed and placed in service on qualified property in this state.*

*(b) For purposes of this section, a “qualified taxpayer” means any taxpayer that installs one or more energy conservation measures on the taxpayer’s qualified property in this state.*

*(c) (1) For purposes of this section, “qualified cost” means any cost paid or incurred on or after January 1, 2001, and before January 1, 2004, by the qualified taxpayer for the purchase, lease, or installation of an energy conservation measure, as described in subdivision (e), that has been certified as specified in subdivision (h) and installed and placed in service on qualified property in this state.*

*(2) “Qualified costs” do not include any costs paid or incurred in connection with the purchase, lease, or installation of any used energy conservation measure. For purposes of this paragraph, a used energy conservation measure means an energy conservation measure where the original use of the energy conservation measure did not commence with the taxpayer within the meaning of Section 1.48-2 of regulations issued by the Secretary of the Treasury as in effect January 1, 2001.*

1 (3) (A) *“Qualified costs” do not include the amount of a*  
2 *federal or state grant received by the taxpayer for an energy*  
3 *conservation measure.*

4 (B) *In the event any grant described in subparagraph (A) is*  
5 *received in a taxable year other than the taxable year in which the*  
6 *credit was claimed under this section, the qualified taxpayer shall*  
7 *be required to amend his or her return for the taxable year in which*  
8 *the credit was claimed to reduce the qualified costs upon which the*  
9 *credit was based by the amount of the grant.*

10 (C) *For purposes of this paragraph, a federal or state grant for*  
11 *an energy conservation measure means an amount received under*  
12 *federal or state law related to the acquisition, installation, or*  
13 *ownership of an energy conservation measure.*

14 (4) *In any case in which the limitation specified in subdivision*  
15 *(a) applies, any amounts that would otherwise be treated as*  
16 *qualified costs under this section but for those amounts being in*  
17 *excess of the limitation amount in subdivision (a), then those*  
18 *excess amounts shall not be treated as qualified costs under this*  
19 *section in any other taxable year.*

20 (d) (1) *In the case of any lease of an energy conservation*  
21 *measure where the lessee is not treated as the owner of the energy*  
22 *conservation measure for California income and franchise tax*  
23 *depreciation purposes, all of the following special rules apply:*

24 (A) *Only the taxpayer actually using the energy conservation*  
25 *measure may be treated as a qualified taxpayer that may claim the*  
26 *credit allowed under this section.*

27 (B) *In computing the qualified costs paid or incurred by the*  
28 *lessee during the taxable year, the portion of each lease payment*  
29 *that is allocable to interest, including for this purpose any discount*  
30 *factor used to price the lease payments under the terms of the lease,*  
31 *taxes, maintenance, insurance, and any other noncapital costs of*  
32 *the lease shall be excluded from qualified costs for purposes of this*  
33 *section.*

34 (C) *The placed in service date for a lease shall be treated as the*  
35 *inception date of the lease or, if earlier, the first date on which the*  
36 *lessee becomes unconditionally obligated to pay lease payments*  
37 *under the terms of the lease.*

38 (D) *A qualified taxpayer that is a lessee shall be entitled to*  
39 *claim the credit each year of the lease term in which lease*  
40 *payments, as adjusted under subparagraph (B) above, are paid or*



1 incurred, subject to the taxable year limitations set forth in  
2 subdivision (a).

3 (2) In the case of any lease of an energy conservation measure  
4 where the lessee is treated as the tax owner of the property for  
5 California income and franchise tax depreciation purposes, the  
6 rules of paragraphs (1) and (2) of subdivision (c) and of  
7 subdivision (g) apply.

8 (e) (1) For purposes of this section, “energy conservation  
9 measure” means any item with a useful life of at least three years  
10 in one of the following generic categories that meet the minimum  
11 standards as specified in subdivision (i):

12 (A) Ceiling insulation.

13 (B) Weatherstripping of any doors and windows that lead to  
14 unheated or uncooled areas that effectively and reliably limits air  
15 infiltration.

16 (C) Low-flow devices on all accessible showerheads and  
17 toilets.

18 (D) Insulation of all accessible supply and return of heating  
19 and cooling system ducts and plenums that are located in unheated  
20 or uncooled areas and sealing of all duct and plenum joints with  
21 pressure-sensitive tape or mastic.

22 (E) Ventilation cooling fans, attic ventilators, house fans, and  
23 economizer systems.

24 (F) Floor insulation, excluding carpet, carpet pads, rugs, tile,  
25 and linoleum.

26 (G) Energy efficient appliances, including, but not limited to,  
27 refrigerators, dishwashers, laundry washers, and laundry dryers.

28 (H) Energy efficient heating and cooling systems.

29 (I) An external water heater insulation blanket.

30 (J) Caulking or sealing of all major cracks and joints and other  
31 openings in building exteriors that reduce the loss of heated or  
32 cooled air or the entry of outside air where feasible, and sealing  
33 of wall outlets.

34 (K) Wall insulation.

35 (L) Heat pumps and water heating heat pumps, including those  
36 that use air, water, or earth as a source or sink of heat, that replace  
37 electric resistance heaters or are used in conjunction with a solar  
38 energy system.

1 (M) Covers for swimming pools or hot tubs that transmit the  
2 sun's radiation energy into the water or reduce heat loss or water  
3 evaporation.

4 (N) Electrical or mechanical furnace ignition systems that  
5 replace gas pilot lights.

6 (O) Devices modifying the openings of heating and cooling  
7 systems that achieve increased energy efficiency.

8 (P) Storm or thermal windows or doors for the exterior of  
9 dwellings, evaporative coolers, heat absorbing or heat reflective  
10 glazed window and door materials, exterior shading devices, and  
11 movable insulation including, but not limited to, shutters or  
12 thermal drapes, that substantially reduce the energy needed for  
13 space heating and cooling.

14 (Q) Load management devices to reduce the direct or indirect  
15 use of electricity through interruption, storage, or load limiting.

16 (2) (A) "Energy conservation measure" does not include any  
17 generic item described in paragraph (1) installed or placed in  
18 service in connection with the construction of a building or  
19 mobilehome or in connection with an increase in the square  
20 footage of qualified property.

21 (B) For purposes of this paragraph, "square footage" means  
22 the total area of the qualified property in square feet at the  
23 beginning of the taxable year in which the taxpayer claimed a  
24 credit for the energy conservation measure. For purposes of  
25 calculating the square footage of qualified property, the total area  
26 of an attached garage shall be excluded.

27 (f) For purposes of this section, "qualified property" means a  
28 building or mobilehome, the original use of which commenced  
29 before the beginning of the taxable year.

30 (g) The credit allowed by this section shall be claimed in the  
31 taxable year in which the energy conservation measure is placed  
32 in service, and, except for the special rule provided under  
33 subdivision (d), any amounts paid or incurred in any taxable year  
34 prior to the placed in service year shall be aggregated with  
35 amounts paid or incurred in the placed in service year for purposes  
36 of determining the qualified costs eligible for the credit.

37 (h) The qualified taxpayer shall do all of the following:

38 (1) Obtain from the State Energy Resources Conservation and  
39 Development Commission written certification that each energy  
40 conservation measure for which the credit is claimed is an item

1 *described in subdivision (d), and that the item, as installed on the*  
2 *taxpayer's property, would improve the energy efficiency of that*  
3 *property.*

4 *(2) Retain a copy of the certification described in paragraph*  
5 *(1) of this subdivision and provide it upon request to the Franchise*  
6 *Tax Board.*

7 *(3) If the qualified taxpayer fails to meet the conditions of*  
8 *paragraphs (1) and (2) of this subdivision, then no credit shall be*  
9 *allowed under this section until the requirements of paragraphs (1)*  
10 *and (2) are satisfied.*

11 *(i) (1) The State Energy Resources Conservation and*  
12 *Development Commission shall, after one or more public*  
13 *hearings, adopt regulations that establish minimum standards that*  
14 *any item of a generic category of energy conservation measure, as*  
15 *defined by this section, shall meet to be eligible for a credit under*  
16 *this section. These standards shall include minimum provisions for*  
17 *effectiveness, safety, and consumer protection, that are consistent*  
18 *with standards established pursuant to the applicable federal and*  
19 *state law.*

20 *(2) The Franchise Tax Board may prescribe any regulations*  
21 *that may be necessary to carry out the purposes of this section.*

22 *(j) No deduction shall be allowed under this part for any cost*  
23 *for which a credit is allowed by this section.*

24 *(k) In the case where the credit allowed by this section exceeds*  
25 *the "tax," the excess may be carried over to reduce the "tax" in*  
26 *the following year, and the seven succeeding years if necessary,*  
27 *until it is exhausted.*

28 *(l) This section shall remain in effect only until December 1,*  
29 *2004, and as of that date is repealed.*

30 SEC. 3. This act provides for a tax levy within the meaning of  
31 Article IV of the Constitution and shall go into immediate effect.

O